

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 08-69940

WHYCO FINISHING TECHNOLOGIES, LLC,

Chapter 11

Debtor.

Judge Thomas J. Tucker

**ORDER REQUIRING THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
TO AMEND DISCLOSURE STATEMENT**

On July 15, 2009, the Official Committee of Unsecured Creditors (the “Committee”) filed a plan and disclosure statement, in a document entitled “Official Committee of Unsecured Creditors’ Combined Liquidating Plan of Reorganization and Disclosure Statement” (Docket # 161). The Court cannot yet grant preliminary approval of the disclosure statement contained within this document (“Disclosure Statement”). The Court notes the following problems, which the Committee must correct.

First, the Committee must add the information regarding Bank of America found on pages 44-45 of the Disclosure Statement in Article III, Paragraph A, to the Plan on page 14. The Committee must state in Article III, Paragraph A of the Plan: that the claims register reflects a secured claim in the amount of \$3,724,404.00 of Bank of America based on a proof of secured claim filed by Bank of America, but that Bank of America has stipulated that it has a secured claim of only approximately \$108,000.00.

Second, the Committee must correct the liquidation analysis attached as Exhibit A to the Disclosure Statement so that it includes the \$108,000.00 secured claim of the Bank of America and \$4,704,901.00 (the number given at page 14 of the Plan) rather than “\$3,881,957,” in unsecured claims.

Third, the Committee's Disclosure Statement does not contain any statement regarding post-petition transfers outside the ordinary course of business. The Committee must amend the Disclosure Statement to provide information regarding such transfers. If there have been none, the Committee must state that in the Disclosure Statement.

Fourth, the Disclosure Statement on page 49 states regarding confirmation: "Each class of impaired creditors and interests must accept the plan, as described in paragraph **VIII.B**, above" (emphasis added). There is no Section VIII. It appears that from the way that the Committee has labeled the sections of the Disclosure Statement, that the Committee is referring to Section G.B. The Committee must correctly reference the section of the Disclosure Statement that describes "Acceptance."

Fifth, the Disclosure Statement on pages 50-51 describes the "Effect of Confirmation." The Committee must amend this section as follows:

- The Committee must change the reference to 11 U.S.C. § 1141(d)(5) to 11 U.S.C. § 1141(d)(1) in paragraph E.2.a.
- The Committee must change the reference to 11 U.S.C. § 1141(d)(3) to 11 U.S.C. § 1141(d)(5) in paragraphs E.2.c.(1) and E.2.c.(2).
- The Committee must state that "Section E.2.(b) applies to this Plan."

Sixth, the Plan does not state who will own the stock (equity) of the Debtor after confirmation, and until any sale of such stock under the Plan. Unless otherwise provided in the plan or in an order confirming a Chapter 11 plan, the general rule is that the confirmation of a plan "terminates all rights and interests of equity security holders . . . provided for by the plan." 11 U.S.C. § 1141(d)(1)(B). The Plan must state who will own the reorganized Debtor after confirmation (*e.g.*, whether William Aikens, W. Nicholas Post and Al Atkinson will retain their

equity interests during such period).

Seventh, the first sentence of Paragraph B.6 of the Disclosure Statement on page 41 contains an apparent typographical error. The Committee must change “approved” to “improved.”

Accordingly,

IT IS ORDERED that the Committee must file, no later than **July 29, 2009**, an amended combined plan and disclosure statement which corrects the above stated problems.

IT IS FURTHER ORDERED that the Committee also must provide to Judge’s chambers, no later than **July 29, 2009**, a redlined version of the amended combined plan and disclosure statement, showing the changes the Committee has made to the “Official Committee of Unsecured Creditors’ Combined Liquidating Plan of Reorganization and Disclosure Statement” filed July 15, 2009. The Committee must submit this redlined document to chambers electronically, through the Court’s order submission program.

Signed on July 27, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge